

# Notice of Allowability

Application No.

09/682,669

Examiner

Jared J. Fureman

Applicant(s)

KUDYBA, VICTOR JOSEPH

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 11/24/2003.
2. ☒ The allowed claim(s) is/are 1-18 and 20.
3. ☒ The drawings filed on 04 October 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____             |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____  | 7 <input type="checkbox"/> Examiner's Amendment/Comment                             |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

### **DETAILED ACTION**

Receipt is acknowledged of the amendment, filed on 11/24/2002, which has been entered in the file. Claims 1-18 and 20 are pending.

#### ***Allowable Subject Matter***

1. Claims 1-18 and 20 have been allowed over the prior art of record.
2. The following is an examiner's statement of reasons for allowance and the indication of allowable subject matter: While the examiner does not necessarily agree with all of applicant's arguments presented in the amendment filed on 11/24/2003, the examiner does agree that prior art of record, taken alone or in combination, fails to teach or fairly suggest: a method of automated rail loading of automotive vehicles including the steps of performing an automated railcar identification, generating an automated load makeup based on the identified railcar and automotive vehicles, locating the automotive vehicles and loading the automotive vehicles on a railcar specified in the automated load makeup; and a method of automated rail loading of automotive vehicles including the step of removing the attached tags from the automotive vehicles prior to shipping, in combination with the other claimed limitations as set forth in the claims.

While Barts et al teaches a method of rail loading of automotive vehicles, including identifying vehicles being shipped to a common destination, grouping the vehicles together for loading on a railcar, and specifying a type/size and number of railcars required (see paragraph 729, 752, and 753), Barts et al fails to specifically teach performing an automated railcar identification, generating an automated load makeup

based on the identified railcar and the automotive vehicles, locating the automotive vehicles and loading the automotive vehicles on a railcar specified in the automated load makeup. Barts et al teaches reading a railcar identification only after vehicles have been loaded on the railcar, in order to maintain an inventory and status of vehicles and railcars (see paragraphs 45-55). Thus, Barts et al does not specify a railcar identification when generating an automated load makeup, the railcar is only identified after vehicles have been loaded therein.

While Zalud et al (US 6,064,705) teaches removing a tag from an automotive vehicle (see column 12 lines 55-58), and Domkowski (US 4,652,528) teaches removing a tag from an automotive vehicle at the end of the assembly line (which would be prior to shipping) (see column 1 lines 47-57), both Barts et al and Benson et al teach using the attached tag to identify the automotive vehicle during and/or after shipping. Thus, Barts et al and Benson et al both teach away from removing the attached tag from the automotive vehicle prior to shipping.

Therefore, without the benefit of applicant's teachings, there is no motivation one of ordinary skill in the art at the time of the invention to combine the prior art of record in a manner so as to create the claimed invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared J. Fureman whose telephone number is (703) 305-0424 (effective 1/15/2004, the telephone number will be (571) 272-2391). The examiner can normally be reached on 7:00 am - 4:30 PM M-T, and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

January 5, 2004

*Jared J. Fureman*  
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Art Unit 2876